

REMARKS

After entry of the above amendments claims 48-81 will be pending in the above-identified application. Applicants reserve the right to pursue any cancelled claim in a continuation application. Applicants also note that previous claim amendments were made to facilitate early allowance of the application as the Examiner had indicated in the Office action dated March 10, 2005 that now cancelled claims 5-12, 14, 16-23, and 25 would be allowable is rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Since applicants did not and do not believe that now cancelled original claims 1-35 were not patentable over the cited art, new claims 48-81 reflect some of the original claims without the limitations that were previously indicated as being allowable subject matter. Support for new claims 48-81 can be found in the detailed description, for instance, on page 8, lines 19-22 and pages 9-12. No new matter has been added.

In the Office action dated September 6, 2005, now cancelled claims 1, 3-4, 6-15, 17-25, and 36-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peled et al., U.S. Patent Pub. No. 2002/0016831 (hereinafter "Peled"), in view of Allen et al., U.S. Patent No. 5,892,535 (hereinafter "Allen").

Peled and Allen do not, alone or in combination, disclose, teach, or suggest "determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents," as recited in Claims 48, 61, and 71

New claims 48, 61, and 71 recite "determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents."

The Office action states:

Peled discloses "... determining which of the plurality of objects to retransmit to the receiver based upon the response document," i.e., user 102 or receiver 102 receives a plurality of offering products and services from vendor 101 via a central site ISP 107 (Fig. 1), yet he/she chooses or selects to order only a preferred item(s) or object(s) from the vendor, and the user's request is responded by the vendor based on the requested object or item, see page 1, par. 0009-0011, page 7/par. 0187-0189).

(September 6, 2005 Office action, pgs. 2-3).

Peled, however, is directed to "methods in which an online distributing entity such as an online shop and/or digital media content distributor can locate, identify and authenticate the regional location of a user, both in geographical and in network topology terms." (Pg. 1, para. 0002). Peled is completely unrelated to the method and system for object retransmission without a continuous network connection in a digital media distributor system as claimed in the present invention.

Retransmission of data, information, or content is not discussed anywhere in Peled. In fact, the term "retransmit" and its inflected forms do even not appear in Peled. Thus, Peled does not disclose "determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents," as recited in claims 48, 61, and 71 (emphasis added).

Allen does not cure the deficiencies of Peled. Allen is directed to "a hierarchical system for providing compressed and/or non-compressed digital and/or analog video signals to be broadcast, multicast, or transmitted point-to-point, to remotely located subscribers." (Col. 1, ll. 14-17). And, as with Peled, Allen does not discuss retransmission of data, information, or content anywhere. Moreover, like Peled, the term "retransmit" and its inflected forms do even

not appear in Allen. Hence, Allen also fails to disclose “determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents,” as recited in claims 48, 61, and 71 (emphasis added).

Therefore, even if Peled was combined with Allen, the combination would neither teach nor suggest “determining which of the plurality of objects to retransmit to each of the plurality of receivers based upon the received response documents,” as recited in claims 48, 61, and 71.

Further, in order to establish a prima facie case of obviousness under 35 U.S.C. § 103(a), “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings.” M.P.E.P. § 2143.

Applicants respectfully disagree with the Office action’s statement that the combination of Peled and Allen would have been obvious to one of ordinary skill in the art at the time of invention since Peled is directed to locating, identifying, and authenticating an online user for online distribution entities and Allen is directed to distribution of television programming to subscribers. There is no need in Allen to locate, identify, or authenticate a user since a subscriber can only access programming through a converter or set-top box, which ensures that the subscriber is receiving the correct programming. Absent a showing of a teaching or suggestion to combine the Peled and Allen, a rejection of claims 48-81 under 35 U.S.C. § 103(a) would be inappropriate hindsight-based analysis. *See* M.P.E.P. § 2145.

Accordingly, based at least on the above reasons, applicants respectfully submit that claims 48, 61, and 71 are patentable over Peled in view of Allen. Given that claims 49-60,


62-70, and 72-81 depend from claims 48, 61, and 71, it is respectfully submitted that those claims are patentable over Peled in view of Allen for at least the same reasons.

CONCLUSION

On the basis of the above remarks, reconsideration and allowance of the claims is believed to be warranted and such action is respectfully requested. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below.

Respectfully submitted,
SAWYER LAW GROUP LLP

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Erin C. Ming
Attorney for Applicant(s)
Reg. No. 47,797
(650) 475-1449